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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 UNITED STATES OF AMERICA,)

2:10-CR-00372-PMP-RJJ

8 Plaintiff,

9 vs.

ORDER

10 MELBA LOZOYA-MENDOZA,

11 Defendant.
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14 Before the Court for consideration is Defendant Lozoya-Mendoza's
15 Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a
16 Person in Federal Custody (Doc. #73), and Plaintiff United States' Motion to
17 Dismiss Defendant's Motion as Time Barred (Doc. #75). The Court finds
18 Plaintiff's Motion to Dismiss (Doc. #75) must be granted.

19 Specifically, Defendant Lozoya-Mendoza's Motion is time-barred because
20 it was filed after the 1-year limitation period for filing motions under 28 U.S.C. §
21 2255 had expired. This Court sentenced Defendant Lozoya-Mendoza on June 10,
22 2011, and the deadline for filing a notice of appeal expired on June 24, 2012.
23 Defendant Lozoya-Mendoza, however, did not file the notice of appeal. As a result,
24 the 1-year limitation for filing a motion under 28 U.S.C. § 2255 expired on June 24,
25 2012, but Defendant Lozoya-Mendoza did not submit the instant Motion until July
26 9, 2012. Hence, Defendant's Motion is time-barred and must be dismissed.

1 **IT IS THEREFORE ORDERED** that Plaintiff United States' Motion to
2 Dismiss as Time-Barred, Defendant's Motion Pursuant to 28 U.S.C. § 2255 to
3 Vacate, Set Aside, or Correct Sentence (Doc. #75) is **GRANTED**, and Defendant's
4 Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a
5 Person in Federal Custody (Doc. #73) is hereby Dismissed.

6 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Stay Briefing
7 (Doc. #79) is **DENIED** as moot.

8 DATED: September 10, 2010.

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11 PHILIP M. PRO
12 United States District Judge
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